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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1672 OF 2018
IN
FIRST APPEAL NO. 1187 OF 2013

Mr. Pratul @ Praful Sanatkumar Chinniwala .. Applicant

In the matter of

United Indian Insurance Co. Ltd. .. Appellant
Vs.
Mr. Pratul @ Praful Sanatkumar Chinniwala & Ors. .. Respondents

Mr. T. J. Mendon for the Applicant.
Mr. Nikhil Mehta I/b KMC Legal Ventures for the Appellant.

CORAM : K. K. SONAWANE, J.
DATE : 2nd AUGUST, 2018.

P. C. :

1. Heard learned Counsel for applicant and learned Counsel for respondent-Insurance Company. Perused application.

2. The applicant moved the present application seeking permission to withdraw compensation amount of Rs.28,53,232/- deposited before the M.A.C.T., Mumbai in M.A.C.P. No. 1475 of 2001. The learned Counsel for the applicant submits that the applicant-original claimant suffered 32% serious permanent physical disability during the course of vehicular accident. The learned Tribunal after considering the circumstances of loss of earning and physical pain, medical expenses etc. awarded the compensation amount. Pursuant to the Judgment and Award of the

Tribunal, the appellant-Insurance Company deposited the compensation amount and the claimants prayed for withdrawal of the same.

3. Learned Counsel for the appellant-Insurance Company raised objection and submits that the factum of issuance of policy in favour of insurer is doubtful. The cheque issued for Insurance Policy for vehicle was dishonoured. In such circumstances, the appellant-Insurance Company is not liable to indemnify the loss caused to the vehicle owner.

4. In view of grounds of appeal raised on behalf of the appellant-Insurance Company and the nature of the subject matter, there is no impediment to allow the applicant-original claimant to withdraw lumpsum amount of Rs.20 lakhs from the compensation amount deposited before the M.A.C.T., Mumbai. It is to be noted that even the grounds of appeal raised on behalf of appellant-Insurance Company is considered favorably the monitory liability can be shifted on the owner of the vehicle. But it would unjust and improper to preclude the applicant-original claimant to derive the benefit of the impugned Judgment and Award pending the appeal.

5. Hence, application stands allowed. The applicant-original claimant is hereby permitted to withdraw the lumpsum amount of Rs.20 lakhs from the total compensation amount deposited by the appellant-Insurance Company before the M.A.C.T., Mumbai in M.A.C.P. No. 1475 of 2001 subject to condition that the applicant-original claimant shall furnish an undertaking that he would refund the amount forthwith, if any contingency

arises in the appeal. Rest of the balance compensation amount deposited before the M.A.C.T., Mumbai shall be invested in FDR account in any nationalized bank for a period of two years or till disposal of the appeal, whichever is earlier with liberty to renew the FDR account in future, if required.

6. Accordingly, the Civil Application stands disposed of in above terms.

7. The Registry to send back the R & P of the present First Appeal to the concerned M.A.C.T., Mumbai to facilitate for disbursement of compensation amount as directed above in favour of applicant-original claimant.

8. Registrar of M.A.C.T., Mumbai to take requisite steps for disbursement of the amount as directed above in favour of the applicant-original claimant and forward the compliance report to this Court. The Registrar of M.A.C.T., Mumbai after disbursement of the amount send R & P to this Court with his report at the earliest.

Arjun Machhindra Kadam

Digitally signed by Arjun Machhindra Kadam
Date: 2018.08.06 18:15:24 +0530

[K. K. SONAWANE, J.]